

**DAJD Community Corrections Division**

**Electronic Home Detention (EHD)**

**Eligibility Screening for Sentenced Participants**

**CCD Protocol**

CCD will screen all sentenced defendants ordered to EHD to ensure they are eligible under RCW 9.94A.734. As part of the intake process, the CCD Supervisor will review the charges for which defendants are sentenced to EHD to see if they fall within RCW 9.94A.734. This task may be delegated to Caseworkers; however the CCD Supervisor is responsible for ensuring the screening process is occurring.

1. If the person is sentenced to EHD for one of the restricted crimes or the crime does not meet one of the exceptions, the CCD Supervisor/Caseworker shall:
  - a. Not complete the intake/booking process for that individual;
  - b. Immediately notify the Corrections Program Administrator; and
  - c. Send notice to the court, prosecution and defense counsel.
    - i. The notice shall be in the form of an email, with an NOI attached.
    - ii. The email shall be addressed to defense counsel and the prosecutor, with a cc: to the bailiff and presiding criminal judge.
    - iii. Sample email and NOI language:

*Re: Defendant \_\_\_\_\_, cause # \_\_\_\_\_: It appears the charge of \_\_\_\_\_ for which the defendant was sentenced to EHD is statutorily ineligible per RCW 9.94A.734. Therefore, we believe that CCD cannot accept defendant into the DAJD CCD Electronic Home Detention program.*

*Please provide any further information that may be forthcoming on this case.*
    - iv. The email above is intended to trigger a hearing (although CCD cannot tell them to schedule one) and the NOI is the record the court can file in the docket.
    - v. The CCD Supervisor/Caseworker shall follow up on the case to ensure that (a) the court holds a new hearing and revises the sentence, of (b) the person serves his/her time in jail. There must be some resolution one way or the other prior to the report date on the original order; otherwise the defendant is out of compliance with the original order.
2. If eligibility has not been verified and the court does not amend the order to EHD, the Corrections Program Supervisor shall contact CCD's attorney for guidance and assistance in working with the courts to review the case.

**Prohibited Crimes**

Under RCW 9.94A.734, persons convicted of the following offenses are statutorily prohibited from EHD:

- **Any violent offense** as defined in RCW 9.94A.030:
  - Any felony defined under any law as a class A felony or an attempt to commit a class A felony;
    - Murder in the first degree (RCW 9A.32.030)
    - Murder in the second degree (RCW 9A.32.050)
    - Homicide by abuse (RCW 9A.32.055)
    - Manslaughter in the first degree (RCW 9A.32.060)
    - Assault in the first degree (RCW 9A.36.011)

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- Assault of a child in the first degree (RCW 9A.36.120)
- Kidnapping in the first degree (RCW 9A.40.020)
- Trafficking in the first degree (RCW 9A.40.100(1))
- Arson in the first degree (RCW 9A.48.020)
- Burglary in the first degree (RCW 9A.52.020)
- Robbery in the first degree (RCW 9A.56.200)
- Criminal solicitation or (RCW 9A.28.030) or criminal conspiracy to commit (RCW 9A.28.040) a class A felony;
- Manslaughter in the first degree (RCW 9A.32.060);
- Manslaughter in the second degree (RCW 9A.32.070);
- Indecent liberties if committed by forcible compulsion;
- Kidnapping in the second degree (RCW 9A.40.030);
- Arson in the second degree (RCW 9A.48.030);
- Assault in the second degree (RCW 9A.36.021);
- Assault of a child in the second degree (RCW 9A.36.130);
- Extortion in the first degree (RCW 9A.56.120);
- Robbery in the second degree (RCW 9A.56.210);
- Drive-by shooting (RCW 9A.36.045);
- Vehicular assault (RCW 46.61.522), when caused by the operation or driving of a vehicle by a person while under the influence of intoxicating liquor or any drug or by the operation or driving of a vehicle in a reckless manner; and
- Vehicular homicide (RCW 46.61.520), when proximately caused by the driving of any vehicle by any person while under the influence of intoxicating liquor or any drug or by the operation of any vehicle in a reckless manner.
- **Any sex offense** as defined in RCW 9.94A.030:
  - A felony that is a violation of chapter 9A.44 RCW other than RCW 9A.44.132 (Failure to register as a sex offender or kidnapping offender), unless the felony failure to register is the person's second conviction for a felony failure to register under RCW 9A.44.132(1);
  - A violation of RCW 9A.64.020 (Incest);
  - A felony that is a violation of chapter 9.68A RCW (Sexual Exploitation of Children) other than RCW 9.68A.080 (Reporting of depictions of minor engaged in sexually explicit conduct);
  - A felony that is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or criminal conspiracy to commit such crimes; and
  - A felony with a finding of sexual motivation under RCW 9.94A.835.
- **Any drug offense** as defined in RCW 9.94A.030:
  - Any felony violation of chapter 69.50 RCW **except** possession of a controlled substance (RCW 69.50.4013) or forged prescription for a controlled substance (RCW 69.50.403).
- **Reckless burning in the first or second degree** (9A.48.040 & 9A.48.050)
- **Assault in the third degree** (9A.36.031)
- **Assault of a child in the third degree** (9A.36.140)
- **Unlawful imprisonment** (9A.40.040)
- **Harassment** (9A.46.020)

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**Allowable Crimes with Restrictions**

The following offenders have substantial restrictions on the use of EHD:

- Home detention may be imposed for offenders convicted of possession of a controlled substance under RCW 69.50.4013 or forged prescription for a controlled substance under RCW 69.50.403. The offender is eligible if the offender fulfills the participation conditions set forth below [Conditions of Participation] and is monitored for drug use by a treatment alternatives to street crime or a comparable court or agency-referred program.
- Home detention may be imposed for offenders convicted of burglary in the second degree as defined in RCW 9A.52.030 or residential burglary conditioned upon the offender:
  1. Successfully completing twenty-one days in a work release program; and
  2. Having no convictions for burglary in the second degree or residential burglary during the preceding two years and not more than two prior convictions for burglary or residential burglary;
  3. Having no convictions for a violent felony offense during the preceding two years and not more than two prior convictions for a violent felony offense;
  4. Having no prior charges of escape; and
  5. Fulfilling the other conditions of the home detention program.
- Home detention may be imposed for offenders convicted of taking a motor vehicle without permission in the second degree as defined in RCW 9A.56.075, theft of a motor vehicle as defined under RCW 9A.56.065, or possession of a stolen motor vehicle as defined under RCW 9A.56.068 conditioned upon the offender:
  1. Having no convictions for taking a motor vehicle without permission, theft of a motor vehicle or possession of a stolen motor vehicle during the preceding five years and not more than two prior convictions for taking a motor vehicle without permission, theft of a motor vehicle or possession of a stolen motor vehicle;
  2. Having no convictions for a violent felony offense during the preceding two years and not more than two prior convictions for a violent felony offense;
  3. Having no prior charges of escape; and
  4. Fulfilling the other conditions of the home detention program.

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**Conditions of Participation**

RCW 9.94A.734 requires that participation in a home detention program shall be conditioned on:

- The offender obtaining or maintaining current employment or attending a regular course of school study at regularly defined hours, or the offender performing parental duties to offspring or minors normally in the custody of the offender;
- Abiding by the rules of the home detention program; and
- Compliance with court-ordered legal financial obligations<sup>1</sup>.
- The home detention program may also be made available to offenders whose charges and convictions do not otherwise disqualify them if medical or health-related conditions, concerns or treatment would be better addressed under the home detention program, or where the health and welfare of the offender, other inmates, or staff would be jeopardized by the offender's incarceration. Participation in the home detention program for medical or health-related reasons is conditioned on the offender abiding by the rules of the home detention program and complying with court-ordered restitution.

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<sup>1</sup> "Legal financial obligation" means a sum of money that is ordered by a superior court of the state of Washington for legal financial obligations which may include restitution to the victim, statutorily imposed crime victims' compensation fees as assessed pursuant to RCW 7.68.035, court costs, county or interlocal drug funds, court-appointed attorneys' fees, and costs of defense, fines, and any other financial obligation that is assessed to the offender as a result of a felony conviction. Upon conviction for vehicular assault while under the influence of intoxicating liquor or any drug, RCW 46.61.522 (1)(b), or vehicular homicide while under the influence of intoxicating liquor or any drug, RCW 46.61.520 (1)(a), legal financial obligations may also include payment to a public agency of the expense of an emergency response to the incident resulting in the conviction, subject to RCW 38.52.430.